

New Hampshire State Compliance Check Protocol

I. PURPOSE

- a. To establish policies and procedures for compliance check operations for the Division of Enforcement & Licensing. Why do compliance checks? Compliance checks can save lives!
- b. Alcohol has been identified as a major contributing factor to a wide variety of crimes. Crimes against both persons and property often involve people who have consumed alcohol. Youthful offenders commit many of these crimes. Research shows that the earlier teenagers start drinking, the more likely they will later become addicted to alcohol or other drugs. When states raised the legal drinking age to 21, researches found that the rate of alcohol consumption and alcohol-related problems decreased among 18-20 year olds; those who started drinking later in life drank less and drank less often. Thus, reducing the availability of alcohol to youth is an effective strategy to reduce crime, both today and in the future.

II. PROGRAM ADMINISTRATION

- a. The administration of all compliance check activities shall be under the direction of the Compliance Unit and the Lieutenant responsible for the area the checks are to be conducted. In the absence of the regional lieutenant the area sergeant will be responsible for the checks. Compliance checks are part of the enforcement of RSA 179:5 and as such Investigators may partake in the compliance checks jointly with or independent of any other local, county, or state law enforcement officer.
- b. The program administration and procedures adopted shall create an environment where the licensee or their agent will make decisions based upon a fair and reasonable set of facts and circumstances. Compliance checks shall not incorporate any attempt to coerce or otherwise entrap an individual.
- c. Underage buyers used in Division compliance checks may or may not be paid for their time. Underage buyers shall be selected from a pool of underage buyers that have been pre-certified by an Age Assessment Panel when possible.

III. BUYER CHARACTERISTICS

- a. In order to bring about the intent of the public policy behind compliance checks the law must be examined. The applicable statute triggering the salesperson obligation is RSA 179:8 which states:
 - i. § 179:8. Statement From Purchaser as to Age.
 - 1. For the purposes of RSA 179:7, any person making the sale of beverages or liquor to any person **whose age is in question** (emphasis added) shall require the purchaser to furnish any of the following documentation that such person is 21 years of age or over:
 - a. (a) A motor vehicle driver's license issued by the state of New Hampshire, or a valid driver's license issued by another state, or province of Canada, which bears the date of birth, name, address and picture of the licensee.
 - b. (b) An identification card issued by the director of motor vehicles under the provisions of RSA 260:21, or any picture identification card issued by another state which bears the date of birth, name and address of the individual.
 - c. (c) An armed services identification card.
 - d. (d) A valid passport from a country with whom the United States maintains diplomatic relations.
- b. Photographic identification presented under this section shall be consistent with the appearance of the person, shall not be expired, and shall be correct and free of alteration, erasure, blemish, or other impairment.

- c. Approved Under Age Buyers for alcohol compliance check operations shall only use either a valid New Hampshire State Drivers License or a valid New Hampshire State Non-Drivers ID. Out of state identification will not be authorized for a valid form of identification.
- d. The provisions of RSA 126-K:3 are identical to RSA 179:8 except the age for tobacco sale is age 18 and not 21 as for alcoholic beverages. Therefore any tobacco compliance check shall incorporate by reference all relative provisions from this SOP on alcohol into a tobacco compliance check.
- e. Approved Under Age Buyers for tobacco compliance check operations are approved to utilize a valid New Hampshire State Drivers License, valid New Hampshire State Non-Drivers ID and a valid United States Passport.
- f. In order to fairly carry out the compliance check the UAB must appear to a “reasonable person” to be someone whose age is in question. Therefore the following characteristics are incorporated into the protocol:
 - i. UAB’s should appear to be between 17-19 years old. If the UAB is 20 they must appear to be between the ages of 17-19. Avoid the borderline age of 20 to help avoid “apparent age” challenges or confusion if the UAB turns 21 between the purchase and any trial or administrative action.
 - ii. For the purposes of conducting *tobacco compliance checks* the UB should appear to be between the ages of 15 and 16 years old. If the UB is 17 they must appear to be between the ages of 15 and 16. Avoid the borderline age of 17 to help avoid “apparent age” challenges or confusion if the UAB turns 18 between the time of the purchase and the time/date of any criminal or administrative proceedings. Exclude any person who is in their last quarter of 17 years of age. This is an area where officer discretion is critical to the integrity of the operation.
 - iii. Females should wear little to no makeup, wear casual attire and be of an average height and build. Males should have no facial hair, wear casual attire and be of average height and build.
 - iv. UAB’s must never have purchased or possessed alcohol or tobacco illegally, and must commit to not purchasing or possessing alcohol or tobacco products throughout the duration of the project, including court proceedings. All UAB’s will have their names run through the SPOTS system to confirm that the UAB was not previously convicted of an alcohol related offense. The exception is a court ordered participant.
 - v. UAB’s must be willing to testify in court or administrative hearings.
 - vi. Each under age buyer deemed approved to be utilized during compliance check operations shall complete a Youth Enforcement Handbook. The said handbook shall be completed prior to their use during a compliance check operation. The Youth Enforcement Handbook shall be completed in full and forwarded to the Office of Professional Standards for filing.

IV. AGE ASSESSMENT PANEL

- a. Certification of Underage Buyers
 - i. Compliance checks have been used as an educational tool throughout the state for several years. The question has often been raised, was the underage buyers appearance in question or did the underage buyer look old enough to legally purchase the age restricted product? To assure to the public that compliance checks are conducted in a fair manner and utilizing persons that appear underage, an Age Assessment Panel (AAP) will be created to select the underage persons. The AAP would be developed to create a data-base of underage individuals for use in compliance checks. Each underage individual will be assessed or certified as a person whose appearance is such that a reasonable and prudent person would check for ID in an age restricted scenario.

b. Buyer Age Appraisal

- i. Conducting an apparent age appraisal of potential buyers provides:
 1. Strong evidence that a “reasonable person” would consider the buyer to be under the legal age to purchase alcohol or tobacco.
 2. An opportunity for community groups or leaders to be involved in the compliance check operations, which will promote positive community relations.
 3. An opportunity to interview and assess prospective buyer's “court presence” and utility as a witness.
- ii. It is recommended that a panel comprised of qualified reasonable people to do an assessment of the age of youths being considered as buyers. Appropriate panel members may include schoolteachers, guidance counselors, doctors, nurses, youth counselors, attorneys, and other underage youth. Select citizens who routinely deal with young people. Store clerks or citizens engaged in the business of alcohol sales should be used only if they are not from the jurisdiction to avoid suggestions of tipping off or favoring any businesses. An ideal panel size is from 5 to 7 members. Instruct buyers to come to the age assessment dressed in jeans, T-shirts, or sweatshirts. Advise them to select clothes similar to those they will wear when conducting compliance checks, and, if necessary, when testifying in court. Females should be advised to wear little or no makeup and to avoid wearing jewelry. Men should be clean shaven.
- iii. Have the panel and the applicants report to one site, but in separate rooms. Give each UB candidate an underage buyer applicant sheet (Form #E-031- Division use only) Once the panel is assembled give each panel member an age assessment sheet (Form #E-032- Division use only). Have each buyer candidate, and ideally, at least one clearly overage and one clearly underage (15-16 years old for alcohol or 13-14 years old for tobacco) youth, enter the panel room one by one, make one short statement, and then leave the room. The duration and character of the panel exposure to the buyer candidate should mimic the circumstances of a typical alcohol or tobacco sale.
- iv. If your compliance check operation will include on-sale restaurants and bars with typical low lighting conditions, consider holding the panel in a room where low lighting levels can be established. The buyer applicants can give their name or be identified by number. The panel members will fill in a rating sheet that identifies each buyer candidates apparent age. For an **alcohol** UB AAP an ideal outcome will result in some buyer candidates being assessed at age 18 or 19 by the entire panel. In any event choose buyers judged to be 17-19 years of age by most members of the panel, and avoid hiring buyers judged to be very young (13-16) or very old (21-23) by any panel members. For a **tobacco** UB AAP an ideal outcome will result in some buyer candidates being assessed at age 15 or 16 by the entire panel. In any event choose buyers judged to be 15 or 16 by most members of the panel, and avoid hiring buyers judged to be very young (12-14) or very old (18-20) by any panel members.
- v. Utilize only buyers who are rated by a majority of the age assessment panel to be 17 to 19 years old for alcohol or 15 or 16 for tobacco
- vi. If there is an occasion in which the majority of the AAP rates a UAB candidate as appearing either too young or too old but their actual age is within the guidelines of this policy the investigator may request a review and reconsideration by the Director or his designee. When making the request the investigator must explain the circumstances that prompted the request and provide copies of the UAB candidate's application, panel member scoring sheets and a photograph of the UAB candidate in question. The Director or his designee will review the documentation and make a final determination as to whether or not the UAB candidate may participate in the compliance check program. This determination will be based on the Director or his designee's assessment of UAB candidate's apparent age and if he/she feels that the

UAB candidate is clearly of youthful appearance and questionable age. This will be done on a case by case basis at the discretion of the Director or his designee.

c. The Panel

- i. The AAP should be comprised of a combination of community leaders and/or professionals as well as industry members. The creation of the panel in this manner is to create a balanced array of licensee peers. The AAP should be created and utilized in various areas of the state when and where needed so as to develop pockets of underage volunteers available to law enforcement agencies for compliance check initiatives. These candidates should be used as “underage buyers” for the Compliance Check Program. The AAP Program shall be organized and overseen by the Division of Enforcement of the NH Liquor Commission. Each underage person should be assessed by the panel and the question would be asked of each panel member, “Would you sell alcohol or tobacco products to this person?”
- ii. The AAP should be comprised of the following:
 1. Two members of the law enforcement community
 2. Two members of the Industry (1-On-Sale; 1-Off-Sale)
 3. Two parents
- iii. Each underage buyer to be certified by the Age Assessment Panel shall appear before the panel in two specific scenarios. One being a well lit scenario, similar to a convenience store, and the second scenario would be a more dimly lit area seated at a table to simulate a restaurant or lounge.
- iv. Each underage buyer certified by the AAP shall have Form # E-032 repared and signed by the panel members assessing their opinion that the individual that appeared before them was of an obvious questionable age to purchase alcohol and/or cigarettes.
- v. Under age buyers under the age of 16 years old shall have had an Employer's Request for Child Labor completed by the educational establishment of the minor. The educational establishment will be required to forward this form onto the parent or legal guardian of the minor for signing prior to returning it to the Division of Enforcement. Under age buyers under the age of 18 years old and over the age of 16 years old shall have the parental permission form completed and returned to the Division of Enforcement. The above said documents shall be completed and submitted to the Division of Enforcement prior to the utilization of the under age buyer in any compliance check operation.

V. LOGISTICS

- a. Prior to conducting a compliance check for either alcohol or tobacco the Division shall assemble and use compliance check packets before the date of the operation. Routes should be planned and maps utilized whenever feasible. A list of licensees should be established for the operation. It shall be the policy of the Division that alcohol and tobacco compliance checks shall check all licensees within a community including State Liquor Stores. Investigators working with local police departments shall encourage checks for both on-sale and off-sale licensees. If a local police department initiates the compliance check they shall be responsible for all logistics and funds for the purchase of alcohol or tobacco by the UAB. If the Division initiates the investigator in charge of the operation shall keep an accounting of the money expended at each establishment.
- b. Investigators may experience several scenarios presented by the local police departments.
 - i. If the investigator finds that the local police department is not looking for administrative action if a licensee fails the compliance check then the Division shall not participate.
 - ii. If the investigator is not notified of the compliance check in a timely manner in order

to prepare the necessary paperwork and meet the investigators' schedule then the only action taken will be issuance of a Notice of Verbal Instruction.

- iii. If the investigator finds that the protocol established by the Commission is not followed by the local police agency then a Notice of Verbal Instruction shall be issued.

VI. PROCEDURE

- a. The Division shall implement the following steps before a compliance check is conducted:
 - i. The operational Checklist, (Form # E-033) shall be utilized as a guideline for setting up compliance checks. The Compliance Unit and/or area Investigator will inform the regional lieutenant of the upcoming compliance checks.
 - ii. The Investigator will inform the Director of Enforcement's Administrative Assistant of the pending compliance check operation prior to its execution. (As much notice as possible).
 - iii. Lieutenants or their designee will secure funds for the investigator/UAB to perform the compliance checks.*Investigators are not to use their personal funds for compliance checks.
 - iv. Lieutenants or their designee will secure stipend funds to issue the approved underage buyer for their volunteered time. (*The stipends shall not be given to the approved underage buyer until the conclusion of the compliance check operation*).
 - v. Review and complete Form # E-044 for each approved under age buyer prior to the commencement of the compliance check operation.
 - vi. Form E-044 shall be completed by each approved under age buyer whenever utilized in a compliance check operation and filed in the master compliance check report.
 - vii. Photograph the AAP-UAB.
 - viii. Search the UAB to document he/she is not carrying extra cash or false identification.
 - ix. Rehearse the response of the UAB to a query by a clerk as to identification or age. The policy of the Division will be to have the UAB carry their driver's license and present it upon request. The Director shall approve any deviation of this license requirement.
 - x. If a UAB that has been approved by the Age Assessment Panel is found not to be in compliance with the Division's standards of dress and overall appearance then the investigator conducting the compliance check(s) will not use the UAB for the operation.

VII. AT THE SCENE

- a. The safety of the UAB is always the Division's primary concern and therefore compliance checks shall be conducted with this goal. No check shall be conducted where the safety of the UAB is in question.
- b. Distribute funds for that single store attempt. If the sale is made take the change from the UAB when they emerge. If no sale is made they should retain the money until the next attempt.
- c. If the local law enforcement agency issues the criminal complaint to the clerk for selling the age restricted product, the local officer will elect to either seize the product for evidence, or photograph it and return the product back to the establishment (Some local law enforcement agencies utilize the photograph as the evidence for the sale that was made). If the age restricted product is seized for evidence, the buy money utilized shall not be seized back from

the establishment. If the age restricted product is returned to the establishment after a photograph was taken, the buy money utilized for the purchase shall be immediately seized back from the establishment.

- d. If the Investigator works in a solo capacity when executing the compliance check operation (without the assistance of the local law enforcement agency), the Investigator shall issue the summons and Notice And Record of Verbal Direction as outlined below. In addition, the Investigator shall process the seized evidence by logging into evidence and tagging. The money that is exchanged shall not be seized from the licensee. A receipt for the completed sale shall be tagged as evidence along with the alcohol purchased.
- e. The compliance check buyer report form, Form # E-034, shall be completed and all evidence bagged and tagged before completing the next check.
- f. If feasible, one officer should enter the establishment to observe the transaction. If not feasible try to observe from outside the store.
- g. Buyer enters and selects an age restricted product (cigarettes, six-pack of beer in off-sale checks or a bottle of beer or glass of wine if an on-sale licensee).
- h. Upon leaving the establishment the UAB shall be debriefed on their experience and a reporting sheet shall be completed for each attempt, whether successful or not.
- i. If feasible, and without creating a situation where a licensee calls other licensees, the officers should approach the seller or server and explain the check was done and the result.
- j. If the establishment fails an alcohol compliance check, the Investigator shall issue a Notice And Record of Verbal Instruction. On this document, the Investigator will document that the offense was a violation of RSA 179:5 (Compliance Check Failure), that there will be four (4) points assessed to the liquor license, and that a member of the management will be required to attend a Division sponsored Management Training Seminar Class within (90) days of the offense. An Form # E-045 E shall be completed and issued to each establishment at the time of the failed alcohol compliance check.
- k. If the compliance check operation involves the assistance from a local law enforcement agency; the Investigator shall make that agency aware of the Total Education in Alcohol Management (TEAM) class that is sponsored by the Division of Enforcement. It should be made known that requesting the court to order the defendant to attend this class is an option for a plea agreement.
- l. If the Investigator is issuing the criminal summons to the clerk for a violation of RSA 179:5 (Prohibited Sales); the following practice shall be followed: First Offense: The Investigator shall offer a plea offer for the defendant to attend a Division sponsored Total Education in Alcohol Management (TEAM) class within a (90) day time period, and the Prohibited Sales charge to be placed on file for one (1) year of good behavior. Good behavior shall include no felony, misdemeanor, or major violation convictions. Subsequent Offense(s): The Investigator shall proceed with the prosecution as normal. Enhanced penalties are recommended.
- m. If the above plea offer is not agreeable by the defendant, then the Investigator shall proceed as normal.
- n. If the establishment fails a tobacco compliance check, the Investigator shall issue a Notice And Record of Verbal Instruction. On this document, the Investigator will document that the offense was a violation of 126-K:4 (Compliance Check Failure), and that a member of the management will be required to attend a Division sponsored Management Training Seminar Class within (90) days of the offense. An Form # E-045 shall be completed and issued to each establishment at the time of the failed tobacco compliance check.
- o. If the compliance check operation involves the assistance from a local law enforcement agency; the Investigator shall make that agency aware of the Total Education in Alcohol Management (TEAM) class that is sponsored by the Division of Enforcement. It should be

made known that requesting the court to order the defendant to attend this class is an option for a plea agreement.

- p. If the Investigator is issuing the criminal summons to the clerk for a violation of 126-K:4 (Sale of Tobacco Products to a minor); the following practice shall be followed: First Offense: The Investigator shall offer a plea offer for the defendant to attend a Division sponsored Total Education in Alcohol Management (TEAM) class within a (90) day time period, and for the offense to be placed on file for (90) days of good behavior. Good behavior shall include no felony, misdemeanor, or major violation convictions. Subsequent Offense(s): The Investigator shall proceed with the prosecution as normal. Enhanced penalties are recommended, as outlined within 126-K:4.
- q. If the above plea offer is not agreeable by the defendant, then the Investigator shall proceed as normal.

VIII. AFTER THE CHECKS

- a. The Investigator(s) shall complete Form # E-043 with the under age buyer immediately following the compliance check operation. At this time, the stipend will be given to the under age buyer for having volunteered their time in the said operation.
- b. If a sale was made by a state liquor store, the Investigator shall notify the applicable field Sergeant immediately to report all pertinent information (seller's information, buyer's information, manager's information, item purchased, court date issued, etc), who will in turn notify the commanding Lieutenant. The commanding Lieutenant will notify the Deputy Chief of the above information.
- c. The issuance of Notices And Record of Verbal Instruction as outlined above shall be documented in an IMC as a Call for Service. Within the CFS, the seller's name, UAB's name, the local law enforcement officer's name, and a narrative indicating the facts of the violation shall be included. The CFS shall be printed out, stapled to the Notice And Record of Verbal Instruction and submitted with the compliance check paperwork packet for supervisory review.
- d. The Investigator shall complete an offense report as an event. This report shall constitute the master report documenting the synopsis of the operation, and titled respectively to the type of operation that was conducted (On-Sale Alcohol Compliance Checks, Tobacco Compliance Checks, etc). The Investigator shall import digital photographs of the approved UAB's utilized in the operation onto the images portion of the offense report (The photograph to be imported shall be the photograph taken at the time the operation was executed). Within the folder containing this event (offense) report, the Investigator shall include a photo copy of the driver's licenses of the approved UAB's, a completed Form # E-042 for each approved UAB, Form # E-043 for each approved UAB, and a completed Form # E-044 for each approved UAB. In a separate folder, the Investigator shall include only the Notices And Record of Verbal Instruction which are stapled to completed CFS's. In a separate folder, the Investigator shall file all completed Form # E-034s. In a separate folder, the Investigator shall file the completed MAPPER report. All of the above separate folders utilized to organize the compliance check paperwork shall all be filed in an accordion folder and submitted for supervisory approval.
- e. A completed copy of the MAPPER report shall be forwarded electronically to the criminal analyst for data collection.
- f. All of the issued Notices And Record of Verbal Instruction will be reviewed by the Director or his designee. At the time of this review, the Division may elect to enhance the penalty due to prior history or aggravating factors. If this is the case, the Division administration will contact the licensee directly.
- g. Letters should be prepared and sent to those licensees where a sale was not made. Use the format established by the Director.
- h. If not offered before the checks, the Division shall offer a TEAM program in the community as

soon as possible after the check.

- i. Press releases will be issued under the direction of the Director or his designee.
- j. The Division of Enforcement shall not participate in any compliance checks unless a 90 day period has passed before a subsequent compliance check is conducted. The only exception to the 90 day lapse between compliance checks is the Selective Alcohol and Tobacco Initiative.

IX. SELECTIVE ALCOHOL AND TOBACCO INITIATIVE (SATI)

- a. The Division of Enforcement recognizes that compliance checks for alcohol and tobacco are a valuable educational tool when conducted in a community wide effort. However, there are situations that arise that could require a more directed form of compliance check. The Division of Enforcement receives numerous complaints from the general public regarding a specific licensee selling alcoholic beverages or tobacco products to underage persons. The SATI compliance check shall be used as an enforcement tool as opposed to an educational tool. The resulting penalties would be the same as an enforcement action.
- b. The Division of Enforcement will institute the following law enforcement initiative referred to as the **“SELECTIVE ALCOHOL AND TOBACCO INITIATIVE” (SATI)**.
- c. **“SATI”** will be a controlled law enforcement action conducted by the Division of Enforcement as a result of a formal complaint filed against a specific licensed location.
- d. Underage buyers will be utilized by a member or members of the Division of Enforcement to selectively check and attempt to make purchases of alcoholic beverages and/or tobacco products at specifically identified licensed premise.
- e. Multiple locations within a single community may be selected, but only if complaints have been logged with the Division regarding suspected sales at those additional locations.
- f. **“SATI”** shall be initiated only as a result of a formal complaint levied against a specific licensed location.
- g. The formal complaint shall be filed by the complaining party and he or she shall be identified by name, address and date of birth.
- h. The identity of the complainant shall be kept confidential and available only to the Commission if requested.
- i. Anonymous complaints will not be accepted as a valid formal complaint.
- j. The initial complaint may be filed with the Division of Enforcement by a citizen or other law enforcement agency. This information will be stored in the Dispatch portion of the IMC data base maintained by the Division of Enforcement.
- k. All protocol issues under this policy shall be followed regarding the age and appearance of the underage buyer.
- l. The regional lieutenant shall authorize the **“SATI”** and shall notify the Chief prior to the start of the initiative.
- m. The Deputy Chief or his designee will determine if a stipend will be given to the approved under age buyer for the time that was volunteered in the **“SATI”** operation prior to its execution.
- n. Each **“SATI”** operation attempt will require separate approval processes in regards to the issuance of a stipend to the approved under age buyer. If a stipend is going to be given to the under age buyer, the stipend shall not be given until the conclusion of the compliance check operation.

- o. Photograph the AAP-UAB prior to the “**SATI**” operation.
- p. Search the UAB to document he/she is not carrying extra cash or false identification.
- q. Rehearse the response of the UAB to a query by a clerk as to identification or age. The policy of the Division will be to have the UAB carry their driver's license and present it upon request. The Director shall approve any deviation of this license requirement.
- r. If a UAB that has been approved by the Age Assessment Panel is found not to be in compliance with the Division's standards of dress and overall appearance then the investigator conducting the compliance check(s) will not use the UAB for the operation
- s. Review and complete the attached Form # E-044 for each approved under age buyer prior to the commencement of the compliance check operation.
- t. Form # E-044 shall be completed by each approved under age buyer whenever utilized in a compliance check operation and filed in the offense report.
- u. Distribute funds for that single store attempt. If the sale is made take the change from the UAB when they emerge. If no sale is made they should retain the money until the next attempt.
- v. If feasible, one officer should enter the establishment to observe the transaction. If not feasible try to observe from outside the store.
- w. Buyer enters and selects an age restricted product (cigarettes, six-pack of beer in off-sale checks or a bottle of beer or glass of wine if an on-sale licensee).
- x. Upon leaving the establishment the UAB shall be debriefed on their experience and a reporting sheet shall be completed for each attempt, whether successful or not.
- y. The “**SATI**” operation will consist of two (2) checks done 15 calendar days apart.
- z. Each “**SATI**” operation offense will be considered a single violation.
- aa. The “**SATI**” operation will be recorded and filed as an IMC Incident report. The report shall identify the licensee; the complaints alleged and the person or persons used for the operation.
- bb. The “**SATI**” violations shall be filed in IMC Offense Reports (OF) with full details describing the violation in addition to the complaints filed against the location. Within the folder containing this offense report, the Investigator shall include a photo copy of the driver's licenses of the approved UAB's, a completed Form # E-034, a completed Form # E-042 for each approved UAB, Form # E-043 for each approved UAB (*if applicable*), and a completed Form # E-044 for each approved UAB(*if applicable*).
- cc. Each “**SATI**” offense will constitute the issuance of an Administrative Notice of Agency Action to the establishment. The Administrative Notice shall indicate that it is a Must Appear, and that the establishment shall contact the legal department of the Division within five (5) business days of the offense.
- dd. The Investigator(s) shall complete the attached Form # E-043 with the under age buyer immediately following the “**SATI**” operation. At this time, the stipend will be given to the under age buyer for having volunteered their time in the said operation.

X. Underage Buyer Removal Procedure

- a. An investigator may run into a situation where a buyer is no longer reliable, has gotten into trouble at school or with law enforcement, has engaged in activity that reflects negatively upon the division, or has requested to be removed from the calling list. The following procedure shall be taken when an underage buyer is to be removed from the list:

- i. The investigator shall submit a memo to their immediate supervisor requesting that the Under Age Buyer be removed from the list, and explain the situation that occurred that causes concern as to their suitability as an underage buyer.
- ii. The immediate supervisor will determine if the situation warrants permanent removal from the list.
- iii. If it is determined that the buyers actions warrant removal, the immediate supervisor shall remove the buyer from the approved underage buyer list by notifying the training division. It shall be the responsibility of the training division to inform all field personnel of that buyer's removal from the list.

Per Order of the Director

Eddie Edwards
Director of Enforcement and Licensing



State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing



AGE ASSESSMENT SHEET											
Panel Member Name: _____											
Title/Business _____											
Applicant:	Visual Age Assessment (Please circle ONLY ONE number)										
# 1	13	14	15	16	17	18	19	20	21	22	23+
# 2	13	14	15	16	17	18	19	20	21	22	23+
# 3	13	14	15	16	17	18	19	20	21	22	23+
# 4	13	14	15	16	17	18	19	20	21	22	23+
# 5	13	14	15	16	17	18	19	20	21	22	23+
# 6	13	14	15	16	17	18	19	20	21	22	23+
# 7	13	14	15	16	17	18	19	20	21	22	23+
# 8	13	14	15	16	17	18	19	20	21	22	23+
# 9	13	14	15	16	17	18	19	20	21	22	23+
# 10	13	14	15	16	17	18	19	20	21	22	23+
# 11	13	14	15	16	17	18	19	20	21	22	23+
# 12	13	14	15	16	17	18	19	20	21	22	23+



**State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing**



OPERATIONAL CHECKLIST

The following is a step-by-step checklist for compliance check operations:

- ☐ 1. Determine the type of compliance check (alcohol or tobacco)
- ☐ 2. Review the statutes involved
- ☐ 3. Make decisions involving
 - ☐ a. type of alcohol to purchase
 - ☐ b. one v. two officers
 - ☐ c. viewing the buyer(s)
 - ☐ d. UAB is a volunteer or court ordered
- ☐ 4. Select sites to be checked
- ☐ 5. Review plan with local agency
- ☐ 6. Notify community (if applicable)
- ☐ 7. Review the protocol with the UAB's before conducting the checks
- ☐ 8. Logistics
 - ☐ a. prepare site packets
 - ☐ b. plan routes
 - ☐ c. schedule officers and UAB's
 - ☐ d. obtain and document cash for purchases
- ☐ 9. Implement compliance check according to protocol
- ☐ 10. Complete reports and file complaints
- ☐ 11. Send congratulatory letters (Done at the discretion of the Director or his designee)
- ☐ 12. Hold education classes if no held before check
- ☐ 13. Issue press release (Done at the discretion of the Director or his designee)



**State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing**



Alcohol/Tobacco Compliance Check Protocol Sheet

Date: _____

I, _____ DOB: _____ of _____

will do the following:

1. Will review all pertinent and applicable laws and statutes with the supervising Police Officer.
2. Will only possess my actual Driver's License and the funds provided by the Department to purchase the alcoholic beverages or tobacco products.
3. Will have a photograph taken of me and a copy of my approved valid identification prior to the assignment.
4. Will present my Driver's License or valid approved identification when requested for the purpose of identifying myself.
5. Will answer truthfully as to my age and Date of Birth when requested.
6. Will NOT attempt or make purchase if a clerk or bartender is known to me.
7. Will only make limited conversation when attempting to purchase, and once refused sale, will not continue to complete the purchase.

I understand the above conditions

Volunteer Signature

Law Enforcement Witness



State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing



UNDER AGE BUYER RECEIPT FOR VOLUNTEERED TIME

I, _____ of _____
with a date of birth being _____ assisted the New Hampshire State Liquor Commission,
Division of Enforcement & Licensing with an **Alcohol/Tobacco/SATI** Compliance Check
Operation in the following jurisdiction(s) _____

On _____ I was assigned to a Division of Enforcement & Licensing
Date
sworn employee identified as: _____
from _____ o'clock to _____ o'clock
having volunteered a total of _____ hours.

As I agreed upon prior commencement of the compliance check operation, the Division of Liquor
Enforcement and Licensing will be granting me a fixed stipend in the amount of _____
for volunteering my time.

I accept the stipend amount of _____ granted me for the time I volunteered
with this operation, and consider a copy of this letter as a receipt for payment of my volunteered
time. I do understand that It is incumbent upon me to appropriately report my acceptance of this
stipend to the IRS as required by law.



**State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing**



**INFORMANT AGREEMENT
VOLUNTEER SERVICE AGREEMENT**

This agreement, made on (Date) _____ by and between the New Hampshire State Liquor Commission, Division of Enforcement and Licensing hereinafter referred to as "charity, and

(Name) _____ (SSN) _____ - - (Date of Birth) _____

hereinafter referred to as "Volunteer."

WITNESSETH:

Whereas, volunteer intends to donate services to the charity identified above, and said charity intends to accept the donation of Volunteer services.

NOW THEREFORE, in consideration of the mutual promises, the parties hereto agree as follows:

1. Volunteer agrees to donate services to charity in the capacity of **Approved Under Age Buyer**. Said services shall include, but may not be limited to the following:
 - On-Sale Alcohol Compliance Check Enforcement Operations
 - Off-Sale Alcohol Compliance Check Enforcement Operations
 - Tobacco Compliance Check Enforcement Operations.
 - Selective Alcohol Tobacco Initiatives.
 - Criminal court proceedings as a result of compliance check operations.
 - Administrative proceedings as a result of compliance check operations.
2. It is mutually and expressly understood that volunteer services shall be donated and that said volunteer is not entitled to nor expects any present or future salary, wages, or other benefits for these voluntary services.
3. Volunteer agrees to follow the supervision and direction of any personnel, employee, or volunteer, to whom volunteer has been assigned to perform services, and to participate in any training required by the charity in order to perform the voluntary services.
4. Volunteer agrees that he/she will not be considered to be an employee of the charity, for any purposes other than tort claims and injury compensation, while performing the above described voluntary services.
5. Volunteer further understands that if volunteer is responsible for injuries to third parties or damages to their property while acting outside the scope of assigned volunteer duties, that said volunteer may be held personally liable for any monetary damages a court may award to the injured party.
6. It is further understood and agreed to by volunteer that the services rendered to the charity shall apply only in the case of liability arising out of the ordinary negligence that occurs during the scope of the volunteer's services agreed to herein, and that in no way do any of these provisions apply for the benefit of volunteer, his/her heirs, executors or administrators in any action arising out of gross negligence, willful misconduct, or any other conduct on the part of said volunteer, which cause of may give rise to criminal liability.
7. Volunteer further agrees that volunteer will fully cooperate with the charity and its legal agents in any investigation, lawsuit, arbitration, or any other legal or quasi-legal proceedings that arise from the matters covered by this agreement. Volunteer further agrees to notify the charity immediately of any incident that occurs or may occur within the knowledge of the volunteer, which gives rise to liability on the part of the volunteer of the charity.

I understand that my volunteer assignment will be on _____ and end on _____ and that I will spend approximately _____ hours providing volunteer services. I also understand that my volunteer assignment may be terminated at any time by either party to this agreement.

IN CASE OF EMERGENCY, please contact: _____ Phone:# _____

PARENT OR GUARDIAN SIGNATURE

DATE

SIGNATURE OF VOLUNTEER

DATE

TO BE COMPLETED AT END OF VOLUNTEER'S SERVICE BY VOLUNTEER SUPERVISOR:

VOLUNTEER TIME DONATED _____ HOURS

SIGNATURE OF VOLUNTEER _____ DATE _____

DIVISION MEMBER (Name & Title) _____ DATE: _____

SIGNATURE OF DIVISION MEMBER: _____



State of New Hampshire
LIQUOR COMMISSION
Division of Enforcement & Licensing

57 Regional Drive
P.O. Box 1795
Concord, NH 03302-1795
Phone: (603) 271-3521
Fax: (603) 271-3758

Joseph W. Mollica
Chairman

Mark M. Bodi
Commissioner

Michael R. Milligan
Commissioner

Eddie Edwards
Director
eedwards@liquor.state.nh.us

"Helping Kids Make the Right Choice - Alcohol and Tobacco Free!"

Date:

Licensee Name:

Address:

Licensee Number

Investigator Name:

NH State Liquor Commission, Division of Enforcement & Licensing
57 Regional Street PO Box 1795
Concord, NH 03302

Dear Business Manager,

On _____ The NH State Liquor Commission, Division of Enforcement & Licensing
in conjunction with the _____
Police Department, conducted an alcohol/tobacco compliance checks throughout your city/town.

Your establishment was checked and your employee, identified as, _____
sold or delivered alcohol/tobacco to a minor. In addition to your employee having been summoned to
court for the offense, your establishment was also issued a notice and record of verbal instruction. For
violations of RSA 179:5 (Prohibited Sale of Alcohol) 4 points were assessed towards your liquor license.

Additionally, a **member of management** (not necessarily the offending clerk) will be required to attend a
Division of Liquor Enforcement & Licensing Management Training Seminar (MTS) within 90 days of
receipt of your warning or your establishment may face additional sanctions.

Please contact the Division at 271-8531 and sign up for an MTS class. You can also review a list of
course offerings at the following website <http://www.nh.gov/liquor/index.shtml>

Respectfully,

Investigator



State of New Hampshire
Liquor Commission
Division of Enforcement & Licensing



COMPLIANCE CHECK BUYER REPORT FORM

Check the type of compliance check: ☐ Alcohol ☐ Tobacco Date of Attempt: ____/____/____ Time in: ____ Time Out: ____

Type of License: ☐ Over the Counter ☐ Vending Machine Is licensee eligible: ☐ Yes ☐ No If eligible was inspection completed: ☐ Yes ☐ No

Not Eligible For The Following Reason:

- | | |
|---|--|
| <input type="checkbox"/> Out of business (I1) | <input type="checkbox"/> Unable to locate (I6) |
| <input type="checkbox"/> Does not sell tobacco (I2) | <input type="checkbox"/> Wholesale only (I7) |
| <input type="checkbox"/> Inaccessible by youth (I3) | <input type="checkbox"/> Vending Machine broken (I8) |
| <input type="checkbox"/> Private club/Personal residence (I4) | <input type="checkbox"/> Duplicate (I9) |
| <input type="checkbox"/> Temporary long-term closure (I5) | <input type="checkbox"/> Other (I10) |

Inspection Not completed For Following Reason:

- | | |
|--|--|
| <input type="checkbox"/> In operation but closed at time of visit (N1) | <input type="checkbox"/> Drive thru only (N6) |
| <input type="checkbox"/> Unsafe to access (N2) | <input type="checkbox"/> Tobacco out of stock (N7) |
| <input type="checkbox"/> Presence of police (Other than DLE) (N3) | <input type="checkbox"/> Ran out of time (N8) |
| <input type="checkbox"/> Youth Inspector knows salesperson (N4) | <input type="checkbox"/> Other: (specify) (N9) |
| <input type="checkbox"/> Moved to new location (N5) | |

Store Observation:

- | | | | |
|--|---|--|-----------------------------------|
| <input type="checkbox"/> Supermarket | <input type="checkbox"/> Convenience: | <input type="checkbox"/> Restaurant/Bar | <input type="checkbox"/> Pharmacy |
| Was vending machine present? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Was a "no sale" warning sign posted? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Location of warning sign: | <input type="checkbox"/> Checkout Counter | <input type="checkbox"/> Doors/windows | |
| | <input type="checkbox"/> Other | | |
| Location of tobacco products in store: | <input type="checkbox"/> Checkout Counter | <input type="checkbox"/> Open shelves (ss) | |
| | <input type="checkbox"/> Locked cases or enclosed area (clerk access) | | |

Business Name :

Address:

City/Town NH State Zip

My name is:

I am ____ yrs of age. My DOB is: ____/____/____
Place of Birth: _____

PURCHASE WAS MADE

- I purchased _____
an alcoholic beverage/tobacco and paid _____
- ☐ I was ☐ I was not questioned as to my age.
- ☐ I was ☐ I was not asked for an ID before the sale.

REFUSAL TO SELL

- I attempted to purchase _____
an alcoholic beverage/tobacco but the seller: (describe the alcoholic beverage)
- ☐ Refused to sell to me.
- ☐ Asked my age and when they saw my ID card refused the sale.
- ☐ Other response: (describe the reason for refusal)

CLERK INFORMATION

The clerk/cashier/waitperson/bartender: ☐ Male ☐ Female Hair color: _____ Approximate age: ☐ Young person ☐ Adult ☐ Elderly

Race: ☐ Caucasian ☐ Black ☐ Hispanic ☐ Asian Other: _____

Shirt Color: _____ Trousers/Pants Color: _____ Name on Tag: _____

Other indicators: (e.g. glasses, unique appearance/speech) _____

At the time of the purchase I did not possess nor did I display any false identification. I have read the above information and all the facts are true and correct.

Print Name _____ Signature _____ Date: _____

Officer Name: _____ Signature _____ Date: _____



NH DIVISION OF LIQUOR ENFORCEMENT AND LICENSING ADMINISTRATION & OPERATIONS MANUAL



CHAPTER: A-130

SUBJECT: Compliance Checks

REVISED: May 7, 2010

EFFECTIVE DATE: September 21, 2007

DISTRIBUTION: Sworn Personnel

APPROVED: *Director Eddie Edwards*

XI. PURPOSE

- a. To establish policies and procedures for compliance check operations for the Division of Enforcement & Licensing. Why do compliance checks? Compliance checks can save lives!
- b. Alcohol has been identified as a major contributing factor to a wide variety of crimes. Crimes against both persons and property often involve people who have consumed alcohol. Youthful offenders commit many of these crimes. Research shows that the earlier teenagers start drinking, the more likely they will later become addicted to alcohol or other drugs. When states raised the legal drinking age to 21, researches found that the rate of alcohol consumption and alcohol-related problems decreased among 18-20 year olds; those who started drinking later in life drank less and drank less often. Thus, reducing the availability of alcohol to youth is an effective strategy to reduce crime, both today and in the future.

XII. PROGRAM ADMINISTRATION

- a. The administration of all compliance check activities shall be under the direction of the Compliance Unit and the Lieutenant responsible for the area the checks are to be conducted. In the absence of the regional lieutenant the area sergeant will be responsible for the checks. Compliance checks are part of the enforcement of RSA 179:5 and as such Investigators may partake in the compliance checks jointly with or independent of any other local, county, or state law enforcement officer.
- b. The program administration and procedures adopted shall create an environment where the licensee or their agent will make decisions based upon a fair and reasonable set of facts and circumstances. Compliance checks shall not incorporate any attempt to coerce or otherwise entrap an individual.
- c. Underage buyers used in Division compliance checks may or may not be paid for their time. Underage buyers shall be selected from a pool of underage buyers that have been pre-certified by an Age Assessment Panel when possible.

XIII. BUYER CHARACTERISTICS

- a. In order to bring about the intent of the public policy behind compliance checks the law must be examined. The applicable statute triggering the salesperson obligation is RSA 179:8 which states:
 - i. § 179:8. Statement From Purchaser as to Age.

1. For the purposes of RSA 179:7, any person making the sale of beverages or liquor to any person **whose age is in question** (emphasis added) shall require the purchaser to furnish any of the following documentation that such person is 21 years of age or over:
 - a. (a) A motor vehicle driver's license issued by the state of New Hampshire, or a valid driver's license issued by another state, or province of Canada, which bears the date of birth, name, address and picture of the licensee.
 - b. (b) An identification card issued by the director of motor vehicles under the provisions of RSA 260:21, or any picture identification card issued by another state which bears the date of birth, name and address of the individual.
 - c. (c) An armed services identification card.
 - d. (d) A valid passport from a country with whom the United States maintains diplomatic relations.
- b. Photographic identification presented under this section shall be consistent with the appearance of the person, shall not be expired, and shall be correct and free of alteration, erasure, blemish, or other impairment.
- c. Approved Under Age Buyers for alcohol compliance check operations shall only use either a valid New Hampshire State Drivers License or a valid New Hampshire State Non-Drivers ID. Out of state identification will not be authorized for a valid form of identification.
- d. The provisions of RSA 126-K:3 are identical to RSA 179:8 except the age for tobacco sale is age 18 and not 21 as for alcoholic beverages. Therefore any tobacco compliance check shall incorporate by reference all relative provisions from this SOP on alcohol into a tobacco compliance check.
- e. Approved Under Age Buyers for tobacco compliance check operations are approved to utilize a valid New Hampshire State Drivers License, valid New Hampshire State Non-Drivers ID and a valid United States Passport.
- f. In order to fairly carry out the compliance check the UAB must appear to a “reasonable person” to be someone whose age is in question. Therefore the following characteristics are incorporated into the protocol:
 - i. UAB’s should appear to be between 17-19 years old. If the UAB is 20 they must appear to be between the ages of 17-19. Avoid the borderline age of 20 to help avoid “apparent age” challenges or confusion if the UAB turns 21 between the purchase and any trial or administrative action.
 - ii. For the purposes of conducting *tobacco compliance checks* the UB should appear to be between the ages of 15 and 16 years old. If the UB is 17 they must appear to be between the ages of 15 and 16. Avoid the borderline age of 17 to help avoid “apparent age” challenges or confusion if the UAB turns 18 between the time of the purchase and the time/date of any criminal or administrative proceedings. Exclude any person who is in their last quarter of 17 years of age. This is an area where officer discretion is critical to the integrity of the operation.
 - iii. Females should wear little to no makeup, wear casual attire and be of an average height and build. Males should have no facial hair, wear casual attire and be of average height and build.

- iv. UAB's must never have purchased or possessed alcohol or tobacco illegally, and must commit to not purchasing or possessing alcohol or tobacco products throughout the duration of the project, including court proceedings. All UAB's will have their names run through the SPOTS system to confirm that the UAB was not previously convicted of an alcohol related offense. The exception is a court ordered participant.
- v. UAB's must be willing to testify in court or administrative hearings.
- vi. Each under age buyer deemed approved to be utilized during compliance check operations shall complete a Youth Enforcement Handbook. The said handbook shall be completed prior to their use during a compliance check operation. The Youth Enforcement Handbook shall be completed in full and forwarded to the Office of Professional Standards for filing.

XIV. AGE ASSESSMENT PANEL

a. Certification of Underage Buyers

- i. Compliance checks have been used as an educational tool throughout the state for several years. The question has often been raised, was the underage buyers appearance in question or did the underage buyer look old enough to legally purchase the age restricted product? To assure to the public that compliance checks are conducted in a fair manner and utilizing persons that appear underage, an Age Assessment Panel (AAP) will be created to select the underage persons. The AAP would be developed to create a data-base of underage individuals for use in compliance checks. Each underage individual will be assessed or certified as a person whose appearance is such that a reasonable and prudent person would check for ID in an age restricted scenario.

b. Buyer Age Appraisal

- i. Conducting an apparent age appraisal of potential buyers provides:
 - 1. Strong evidence that a "reasonable person" would consider the buyer to be under the legal age to purchase alcohol or tobacco.
 - 2. An opportunity for community groups or leaders to be involved in the compliance check operations, which will promote positive community relations.
 - 3. An opportunity to interview and assess prospective buyer's "court presence" and utility as a witness.
- ii. It is recommended that a panel comprised of qualified reasonable people to do an assessment of the age of youths being considered as buyers. Appropriate panel members may include schoolteachers, guidance counselors, doctors, nurses, youth counselors, attorneys, and other underage youth. Select citizens who routinely deal with young people. Store clerks or citizens engaged in the business of alcohol sales should be used only if they are not from the jurisdiction to avoid suggestions of tipping off or favoring any businesses. An ideal panel size is from 5 to 7 members. Instruct buyers to come to the age assessment dressed in jeans, T-shirts, or sweatshirts. Advise them to select clothes similar to those they will wear when conducting compliance checks, and, if necessary, when testifying in court. Females should be advised to wear little or no makeup and to avoid wearing jewelry. Men should be clean shaven.
- iii. Have the panel and the applicants report to one site, but in separate rooms. Give each UB candidate an underage buyer applicant sheet (Form #E-031. Once the panel is assembled

- give each panel member an age assessment sheet (Form #E-032). Have each buyer candidate, and ideally, at least one clearly overage and one clearly underage (15-16 years old for alcohol or 13-14 years old for tobacco) youth, enter the panel room one by one, make one short statement, and then leave the room. The duration and character of the panel exposure to the buyer candidate should mimic the circumstances of a typical alcohol or tobacco sale.
- iv. If your compliance check operation will include on-sale restaurants and bars with typical low lighting conditions, consider holding the panel in a room where low lighting levels can be established. The buyer applicants can give their name or be identified by number. The panel members will fill in a rating sheet that identifies each buyer candidates apparent age. For an **alcohol** UB AAP an ideal outcome will result in some buyer candidates being assessed at age 18 or 19 by the entire panel. In any event choose buyers judged to be 17-19 years of age by most members of the panel, and avoid hiring buyers judged to be very young (13-16) or very old (21-23) by any panel members. For a **tobacco** UB AAP an ideal outcome will result in some buyer candidates being assessed at age 15 or 16 by the entire panel. In any event choose buyers judged to be 15 or 16 by most members of the panel, and avoid hiring buyers judged to be very young (12-14) or very old (18-20) by any panel members.
 - v. Utilize only buyers who are rated by a majority of the age assessment panel to be 17 to 19 years old for alcohol or 15 or 16 for tobacco
 - vi. If there is an occasion in which the majority of the AAP rates a UAB candidate as appearing either too young or too old but their actual age is within the guidelines of this policy the investigator may request a review and reconsideration by the Director or his designee. When making the request the investigator must explain the circumstances that prompted the request and provide copies of the UAB candidate's application, panel member scoring sheets and a photograph of the UAB candidate in question. The Director or his designee will review the documentation and make a final determination as to whether or not the UAB candidate may participate in the compliance check program. This determination will be based on the Director or his designee's assessment of UAB candidate's apparent age and if he/she feels that the UAB candidate is clearly of youthful appearance and questionable age. This will be done on a case by case basis at the discretion of the Director or his designee.

c. The Panel

- i. The AAP should be comprised of a combination of community leaders and/or professionals as well as industry members. The creation of the panel in this manner is to create a balanced array of licensee peers. The AAP should be created and utilized in various areas of the state when and where needed so as to develop pockets of underage volunteers available to law enforcement agencies for compliance check initiatives. These candidates should be used as "underage buyers" for the Compliance Check Program. The AAP Program shall be organized and overseen by the Division of Enforcement of the NH Liquor Commission. Each underage person should be assessed by the panel and the question would be asked of each panel member, "Would you sell alcohol or tobacco products to this person?"
- ii. The AAP should be comprised of the following:
 - 1. Two members of the law enforcement community
 - 2. Two members of the Industry (1-On-Sale; 1-Off-Sale)
 - 3. Two parents
- iii. Each underage buyer to be certified by the Age Assessment Panel shall appear before the

panel in two specific scenarios. One being a well lit scenario, similar to a convenience store, and the second scenario would be a more dimly lit area seated at a table to simulate a restaurant or lounge.

- iv. Each underage buyer certified by the AAP shall have Form # E-032 B prepared and signed by the panel members assessing their opinion that the individual that appeared before them was of an obvious questionable age to purchase alcohol and/or cigarettes.
- v. Under age buyers under the age of 16 years old shall have had an Employer's Request for Child Labor completed by the educational establishment of the minor. The educational establishment will be required to forward this form onto the parent or legal guardian of the minor for signing prior to returning it to the Division of Enforcement. Under age buyers under the age of 18 years old and over the age of 16 years old shall have the parental permission form completed and returned to the Division of Enforcement. The above said documents shall be completed and submitted to the Division of Enforcement prior to the utilization of the under age buyer in any compliance check operation.

XV. LOGISTICS

- a. Prior to conducting a compliance check for either alcohol or tobacco the Division shall assemble and use compliance check packets before the date of the operation. Routes should be planned and maps utilized whenever feasible. A list of licensees should be established for the operation. It shall be the policy of the Division that alcohol and tobacco compliance checks shall check all licensees within a community including State Liquor Stores. Investigators working with local police departments shall encourage checks for both on-sale and off-sale licensees. If a local police department initiates the compliance check they shall be responsible for all logistics and funds for the purchase of alcohol or tobacco by the UAB. If the Division initiates the investigator in charge of the operation shall keep an accounting of the money expended at each establishment.
- b. Investigators may experience several scenarios presented by the local police departments.
 - i. If the investigator finds that the local police department is not looking for administrative action if a licensee fails the compliance check then the Division shall not participate.
 - ii. If the investigator is not notified of the compliance check in a timely manner in order to prepare the necessary paperwork and meet the investigators' schedule then the only action taken will be issuance of a Notice of Verbal Instruction.
 - iii. If the investigator finds that the protocol established by the Commission is not followed by the local police agency then a Notice of Verbal Instruction shall be issued.

XVI. PROCEDURE

- a. The Division shall implement the following steps before a compliance check is conducted:
 - i. The operational Checklist, (Form # E-033)) shall be utilized as a guideline for setting up compliance checks. The Compliance Unit and/or area Investigator will inform the regional lieutenant of the upcoming compliance checks.
 - ii. The Investigator will inform the Director of Enforcement's Administrative Assistant of the pending compliance check operation prior to its execution. (As much notice as possible).

- iii. Lieutenants or their designee will secure funds for the investigator/UAB to perform the compliance checks.*Investigators are not to use their personal funds for compliance checks.
- iv. Lieutenants or their designee will secure stipend funds to issue the approved underage buyer for their volunteered time. *(The stipends shall not be given to the approved underage buyer until the conclusion of the compliance check operation).*
- v. Review and complete Form # E-044 for each approved under age buyer prior to the commencement of the compliance check operation.
- vi. Form E-044 shall be completed by each approved under age buyer whenever utilized in a compliance check operation and filed in the master compliance check report.
- vii. Photograph the AAP-UAB.
- viii. Search the UAB to document he/she is not carrying extra cash or false identification.
- ix. Rehearse the response of the UAB to a query by a clerk as to identification or age. The policy of the Division will be to have the UAB carry their driver's license and present it upon request. The Director shall approve any deviation of this license requirement.
- x. If a UAB that has been approved by the Age Assessment Panel is found not to be in compliance with the Division's standards of dress and overall appearance then the investigator conducting the compliance check(s) will not use the UAB for the operation.

XVII. AT THE SCENE

- a. The safety of the UAB is always the Division's primary concern and therefore compliance checks shall be conducted with this goal. No check shall be conducted where the safety of the UAB is in question.
- b. Distribute funds for that single store attempt. If the sale is made take the change from the UAB when they emerge. If no sale is made they should retain the money until the next attempt.
- c. If the local law enforcement agency issues the criminal complaint to the clerk for selling the age restricted product, the local officer will elect to either seize the product for evidence, or photograph it and return the product back to the establishment (Some local law enforcement agencies utilize the photograph as the evidence for the sale that was made). If the age restricted product is seized for evidence, the buy money utilized shall not be seized back from the establishment. If the age restricted product is returned to the establishment after a photograph was taken, the buy money utilized for the purchase shall be immediately seized back from the establishment.
- d. If the Investigator works in a solo capacity when executing the compliance check operation (without the assistance of the local law enforcement agency), the Investigator shall issue the summons and Notice And Record of Verbal Direction as outlined below. In addition, the Investigator shall process the seized evidence by logging into evidence and tagging. The money that is exchanged shall not be seized from the licensee. A receipt for the completed sale shall be tagged as evidence along with the alcohol purchased.
- e. The compliance check buyer report form, Form # E-034, shall be completed and all evidence bagged and tagged before completing the next check.

- f. If feasible, one officer should enter the establishment to observe the transaction. If not feasible try to observe from outside the store.
- g. Buyer enters and selects an age restricted product (cigarettes, six-pack of beer in off-sale checks or a bottle of beer or glass of wine if an on-sale licensee).
- h. Upon leaving the establishment the UAB shall be debriefed on their experience and a reporting sheet shall be completed for each attempt, whether successful or not.
- i. If feasible, and without creating a situation where a licensee calls other licensees, the officers should approach the seller or server and explain the check was done and the result.
- j. If the establishment fails an alcohol compliance check, the Investigator shall issue a Notice And Record of Verbal Instruction. On this document, the Investigator will document that the offense was a violation of RSA 179:5 (Compliance Check Failure), that there will be four (4) points assessed to the liquor license, and that a member of the management will be required to attend a Division sponsored Management Training Seminar Class within (90) days of the offense. An Form # E-045 E shall be completed and issued to each establishment at the time of the failed alcohol compliance check.
- k. If the compliance check operation involves the assistance from a local law enforcement agency; the Investigator shall make that agency aware of the Total Education in Alcohol Management (TEAM) class that is sponsored by the Division of Enforcement. It should be made known that requesting the court to order the defendant to attend this class is an option for a plea agreement.
- l. If the Investigator is issuing the criminal summons to the clerk for a violation of RSA 179:5 (Prohibited Sales); the following practice should be followed: First Offense: The Investigator shall offer a plea offer for the defendant to attend a Division sponsored Total Education in Alcohol Management (TEAM) class within a (90) day time period, and the Prohibited Sales charge to be placed on file for one (1) year of good behavior. Good behavior shall include no felony, misdemeanor, or major violation convictions. Subsequent Offense(s): The Investigator shall proceed with the prosecution as normal. Enhanced penalties are recommended.
- m. If the above plea offer is not agreeable by the defendant, then the Investigator shall proceed as normal.
- n. If the establishment fails a tobacco compliance check, the Investigator shall issue a Notice And Record of Verbal Instruction. On this document, the Investigator will document that the offense was a violation of 126-K:4 (Compliance Check Failure), and that a member of the management will be required to attend a Division sponsored Management Training Seminar Class within (90) days of the offense. An Form # E-045 shall be completed and issued to each establishment at the time of the failed tobacco compliance check.
- o. If the compliance check operation involves the assistance from a local law enforcement agency; the Investigator shall make that agency aware of the Total Education in Alcohol Management (TEAM) class that is sponsored by the Division of Enforcement. It should be made known that requesting the court to order the defendant to attend this class is an option for a plea agreement.
- p. If the Investigator is issuing the criminal summons to the clerk for a violation of 126-K:4 (Sale of Tobacco Products to a minor); the following practice should be followed: First Offense: The Investigator shall offer a plea offer for the defendant to attend a Division sponsored Total Education in Alcohol Management (TEAM) class within a (90) day time period, and for the offense to be

placed on file for (90) days of good behavior. Good behavior shall include no felony, misdemeanor, or major violation convictions. Subsequent Offense(s): The Investigator shall proceed with the prosecution as normal. Enhanced penalties are recommended, as outlined within 126-K:4.

- q. If the above plea offer is not agreeable by the defendant, then the Investigator shall proceed as normal.

XVIII. AFTER THE CHECKS

- a. The Investigator(s) shall complete Form # E-043 with the under age buyer immediately following the compliance check operation. At this time, the stipend will be given to the under age buyer for having volunteered their time in the said operation.
- b. If a sale was made by a state liquor store, the Investigator shall notify the applicable field Sergeant immediately to report all pertinent information (seller's information, buyer's information, manager's information, item purchased, court date issued, etc), who will in turn notify the commanding Lieutenant. The commanding Lieutenant will notify the Deputy Chief of the above information.
- c. The issuance of Notices And Record of Verbal Instruction as outlined above shall be documented in an IMC as a Call for Service. Within the CFS, the seller's name, UAB's name, the local law enforcement officer's name, and a narrative indicating the facts of the violation shall be included. The CFS shall be printed out, stapled to the Notice And Record of Verbal Instruction and submitted with the compliance check paperwork packet for supervisory review.
- d. The Investigator shall complete an offense report as an event. This report shall constitute the master report documenting the synopsis of the operation, and titled respectively to the type of operation that was conducted (On-Sale Alcohol Compliance Checks, Tobacco Compliance Checks, etc). The Investigator shall import digital photographs of the approved UAB's utilized in the operation onto the images portion of the offense report (The photograph to be imported shall be the photograph taken at the time the operation was executed). Within the folder containing this event (offense) report, the Investigator shall include a photo copy of the driver's licenses of the approved UAB's, a completed Form # E-042 for each approved UAB, Form # E-043 for each approved UAB, and a completed Form # E-044 for each approved UAB. In a separate folder, the Investigator shall include only the Notices And Record of Verbal Instruction which are stapled to completed CFS's. In a separate folder, the Investigator shall file all completed Form # E-034s. In a separate folder, the Investigator shall file the completed MAPPER report. All of the above separate folders utilized to organize the compliance check paperwork shall all be filed in an accordion folder and submitted for supervisory approval.
- e. A completed copy of the MAPPER report shall be forwarded electronically to the criminal analyst for data collection.
- f. All of the issued Notices And Record of Verbal Instruction will be reviewed by the Director or his designee. At the time of this review, the Division may elect to enhance the penalty due to prior history or aggravating factors. If this is the case, the Division administration will contact the licensee directly.
- g. Letters should be prepared and sent to those licensees where a sale was not made. Use the format established by the Director.
- h. If not offered before the checks, the Division shall offer a TEAM program in the community as soon as possible after the check.

- i. Press releases will be issued under the direction of the Director or his designee.
- j. The Division of Enforcement shall not participate in any compliance checks unless a 90 day period has passed before a subsequent compliance check is conducted. The only exception to the 90 day lapse between compliance checks is the Selective Alcohol and Tobacco Initiative.

XIX. SELECTIVE ALCOHOL AND TOBACCO INITIATIVE (SATI)

- a. The Division of Enforcement recognizes that compliance checks for alcohol and tobacco are a valuable educational tool when conducted in a community wide effort. However, there are situations that arise that could require a more directed form of compliance check. The Division of Enforcement receives numerous complaints from the general public regarding a specific licensee selling alcoholic beverages or tobacco products to underage persons. The SATI compliance check shall be used as an enforcement tool as opposed to an educational tool. The resulting penalties would be the same as an enforcement action.
- b. The Division of Enforcement will institute the following law enforcement initiative referred to as the **“SELECTIVE ALCOHOL AND TOBACCO INITIATIVE” (SATI)**.
- c. **“SATI”** will be a controlled law enforcement action conducted by the Division of Enforcement as a result of a formal complaint filed against a specific licensed location.
- d. Underage buyers will be utilized by a member or members of the Division of Enforcement to selectively check and attempt to make purchases of alcoholic beverages and/or tobacco products at specifically identified licensed premise.
- e. Multiple locations within a single community may be selected, but only if complaints have been logged with the Division regarding suspected sales at those additional locations.
- f. **“SATI”** shall be initiated only as a result of a formal complaint levied against a specific licensed location.
- g. The formal complaint shall be filed by the complaining party and he or she shall be identified by name, address and date of birth.
- h. The identity of the complainant shall be kept confidential and available only to the Commission if requested.
- i. Anonymous complaints will not be accepted as a valid formal complaint.
- j. The initial complaint may be filed with the Division of Enforcement by a citizen or other law enforcement agency. This information will be stored in the Dispatch portion of the IMC data base maintained by the Division of Enforcement.
- k. All protocol issues under this policy shall be followed regarding the age and appearance of the underage buyer.
- l. The regional lieutenant shall authorize the **“SATI”** and shall notify the Chief prior to the start of the initiative.
- m. The Deputy Chief or his designee will determine if a stipend will be given to the approved under age

buyer for the time that was volunteered in the “SATI” operation prior to its execution.

- n. Each “SATI” operation attempt will require separate approval processes in regards to the issuance of a stipend to the approved under age buyer. If a stipend is going to be given to the under age buyer, the stipend shall not be given until the conclusion of the compliance check operation.
- o. Photograph the AAP-UAB prior to the “SATI” operation.
- p. Search the UAB to document he/she is not carrying extra cash or false identification.
- q. Rehearse the response of the UAB to a query by a clerk as to identification or age. The policy of the Division will be to have the UAB carry their driver’s license and present it upon request. The Director shall approve any deviation of this license requirement.
- r. If a UAB that has been approved by the Age Assessment Panel is found not to be in compliance with the Division’s standards of dress and overall appearance then the investigator conducting the compliance check(s) will not use the UAB for the operation
- s. Review and complete the attached Form # E-044 for each approved under age buyer prior to the commencement of the compliance check operation.
- t. Form # E-044 shall be completed by each approved under age buyer whenever utilized in a compliance check operation and filed in the offense report.
- u. Distribute funds for that single store attempt. If the sale is made take the change from the UAB when they emerge. If no sale is made they should retain the money until the next attempt.
- v. If feasible, one officer should enter the establishment to observe the transaction. If not feasible try to observe from outside the store.
- w. Buyer enters and selects an age restricted product (cigarettes, six-pack of beer in off-sale checks or a bottle of beer or glass of wine if an on-sale licensee).
- x. Upon leaving the establishment the UAB shall be debriefed on their experience and a reporting sheet shall be completed for each attempt, whether successful or not.
- y. The “SATI” operation will consist of two (2) checks done 15 calendar days apart.
- z. Each “SATI” operation offense will be considered a single violation.
- aa. The “SATI” operation will be recorded and filed as an IMC Incident report. The report shall identify the licensee; the complaints alleged and the person or persons used for the operation.
- bb. The “SATI” violations shall be filed in IMC Offense Reports (OF) with full details describing the violation in addition to the complaints filed against the location. Within the folder containing this offense report, the Investigator shall include a photo copy of the driver’s licenses of the approved UAB’s, a completed Form # E-034, a completed Form # E-042 for each approved UAB, Form # E-043 for each approved UAB (*if applicable*), and a completed Form # E-044 for each approved UAB(*if applicable*).
- cc. Each “SATI” offense will constitute the issuance of an Administrative Notice of Agency Action to the establishment. The Administrative Notice shall indicate that it is a Must Appear, and that the

establishment shall contact the legal department of the Division within five (5) business days of the offense.

- dd. The Investigator(s) shall complete the attached Form # E-043 with the under age buyer immediately following the “**SATP**” operation. At this time, the stipend will be given to the under age buyer for having volunteered their time in the said operation.

XX. Underage Buyer Removal Procedure

- a. An investigator may run into a situation where a buyer is no longer reliable, has gotten into trouble at school or with law enforcement, has engaged in activity that reflects negatively upon the division, or has requested to be removed from the calling list. The following procedure shall be taken when an underage buyer is to be removed from the list:
 - i. The investigator shall submit a memo to their immediate supervisor requesting that the Under Age Buyer be removed from the list, and explain the situation that occurred that causes concern as to their suitability as an underage buyer.
 - ii. The immediate supervisor will determine if the situation warrants permanent removal from the list.
 - iii. If it is determined that the buyers actions warrant removal, the immediate supervisor shall remove the buyer from the approved underage buyer list by notifying the training division. It shall be the responsibility of the training division to inform all field personnel of that buyer's removal from the list.